IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16275 of 2006

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NAVDURGA INDANE - Petitioner(s)
Versus
VRAJESHKUMAR HIRALAL PARIKH - Respondent(s)

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Appearance :
MR TJ MODI for Petitioner(s) : 1,
MR PF ADHVARYU for Respondent(s) : 1,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 11/09/2006

ORAL JUDGMENT

RULE returnable today. Mr.Adhvaryu waives service of rule. With the consent of the learned

advocates, the petition is heard and disposed of today.

The petitioner M/s.Navdurga Indane, the employer challenges the judgment and award dated 30th October, 2004 passed by the learned Labour Judge, Vadodara in Reference (LCV) No.384/2002 and the order dated 26th December, 2005 made on Misc. Application No.127/2004.

It is the case of the petitioner that the aforesaid Reference No.384/2002 was registered in connection with the industrial dispute raised by the respondent – workman. The petitioner is a proprietory firm. The proprietor had personally remained present and contested the said Reference. He had filed his written-statement. The workman, in lieu of his deposition, filed an affidavit. Copy of the said affidavit was not served upon the petitioner nor was he given intimation to cross-examine the workman. In absence of the petitioner, the learned Labour Judge, by the impugned award dated 30th October, 2004, allowed the Reference and directed the petitioner to reinstate the workman in service and to pay 50% of

backwages. Feeling aggrieved, the petitioner sought review of the said order dated 30th October, 2004 in Misc. Application No.127/2004. The said Application has been rejected by the learned Labour Judge. According to the learned Labour Judge, the petitioner had been given adequate opportunity. Feeling aggrieved, the petitioner has preferred the present petition.

It is not in dispute that the respondent workman did file affidavit in lieu of his deposition before the Labour Court. It is not borne out of the record that the said affidavit was served upon the petitioner or that the petitioner was given intimation to cross-examine the workman. I am of the opinion that whatever be the cause of action, all parties shall get fair opportunity to represent its case.

In above view of the matter, the petition is allowed. The impugned order dated 26th December, 2005 made on Misc. Application No.127/2004 is quashed and set-aside. The Misc. Application No.127/2004 is

allowed. The impugned judgment and award dated 30th October, 2004 passed by the Labour Court, Vadodara in Reference (LCV) No.384/2002 is quashed and set-aside. The Reference (LCV) No.384/2002 is restored on the files of the Labour Court, Vadodara. The Labour Court, Vadodara shall hear and decide the said Reference (LCV) No.384/2002 afresh. The petitioner herein shall be furnished copy of the affidavit made by the workman and be given opportunity to cross-examine the workman. Rule is made absolute in the above terms. The parties shall bear their own cost.

(Ms. R.M.Doshit, J.)

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